



Investigations Division Training Bulletin

November, 18th 2008

Ref.#: 2008-1

Assault Weapon Cases

There has been an increase over the last two years of AR-15 & AK-47 type firearms sold in CA that at first glance appear to be an assault weapon. These firearms have a device installed called a "Bullet Button". The device prevents the shooter from depressing the magazine release button with a finger. However, the magazine can quickly be released by using the tip of a bullet or other tool to depress the enclosed magazine release button.

Once a bullet button device is installed the firearm no longer has a "detachable magazine" as required in Penal Code Section 12276.1(a)(1) and as defined in the California Code of Regulations. This allows someone to legally possess a rifle built on an off-list (not listed in PC 12276) lower receiver with a pistol grip, folding/telescoping stock, flash suppressor or a forward pistol grip because the firearm has a "fixed magazine".



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There are several ways to classify a firearm as an Assault Weapon. The two most common ways to determine if a firearm is an assault weapon is to refer to Penal Code Sections 12276 & 12276.1.

Penal Code Section 12276 contains a list of all the category 1 assault weapons. Any firearm named on the list in Penal Code Section 12276 is considered an assault weapon and if not registered as an assault weapon with DOJ is a violation of Penal Code Section 12280.

Penal Code Section 12276.1 is used to classify a firearm based on its generic characteristics. The make and model have no bearing on whether a firearm is an assault weapon under this section. Penal Code Section 12276.1(a) provides three separate definitions that officers can refer to when attempting to determine if a rifle is an assault weapon. A rifle only has to meet one of the following three definitions to be an assault weapon. Penal Code Section 12276.1(a) defines an assault rifle as anyone of the following:

- (1) A semiautomatic, centerfire rifle that has the capacity to accept a **detachable magazine** and any one of the following:
 - a) A pistol grip that protrudes conspicuously beneath the action of the weapon.
 - b) A thumbhole stock.
 - c) A folding or telescoping stock.
 - d) A grenade or flare launcher.
 - e) A flash suppressor.
 - f) A forward pistol grip.

OR

- (2) A semiautomatic, centerfire rifle that has a fixed magazine with the capacity to accept more than ten rounds.

OR

- (3) A semiautomatic, centerfire rifle that has an overall length of less than 30 inches.

A rifle equipped with a "Bullet Button" can't fall under Penal Code Section 12276.1(a)(1) because it no longer has a detachable magazine. However, Penal Code Section 12276.1(a)(2) does apply to a rifle equipped with a "Bullet Button" if it has a magazine installed that can hold more than 10 rounds.

Companies that manufacture magazines have become creative in working with California's Assault Weapon laws. They have created a magazine called a "10/30 round magazine". These magazines look just like a 30 round magazine. However, they have been permanently altered to only hold 10 rounds. Some of these magazines are marked as 10 round magazines, but many are not. If you are basing an assault weapon charge on the fact that a rifle has a fixed magazine with the capacity to hold more than 10 rounds make sure you can load more than 10 rounds into the magazine. **Note in your report that you were able to load more than 10 rounds into the magazine.

At first glance the rifle below appears to be an assault rifle. However, it is a completely legal firearm in California. The rifle is an off-list, semiautomatic, centerfire rifle with a telescoping stock, pistol grip, a fixed 10 round magazine and overall length of 31 inches.



Contact Detective Halstead if you have any questions at (916) 433-0671.